

South Australia

National Electricity (South Australia) (Ministerial Reliability Instrument) Amendment Act 2023

An Act to amend the *National Electricity (South Australia) Act 1996*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *National Electricity (South Australia) (Ministerial Reliability Instrument) Amendment Act 2023*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act—

- (a) a provision in Part 2 amends the *National Electricity (South Australia) Act 1996*; and
- (b) a provision in Part 3 amends the *National Electricity Law* set out in the Schedule to the *National Electricity (South Australia) Act 1996*.

Part 2—Amendment of *National Electricity (South Australia) Act 1996*

4—Repeal of Part 7A

Part 7A—delete the Part

Part 3—Amendment of *National Electricity Law*

5—Amendment of section 14C—Definitions

- (1) Section 14C—after the definition of *forecast reliability gap period* insert:

Ministerial reliability gap and *Ministerial reliability gap period*—see section 14JA(1)(b);
- (2) Section 14C, definition of *T-3 reliability instrument*—delete the definition and substitute:

T-3 reliability instrument means—

 - (a) a reliability instrument for a forecast reliability gap made by the AER under section 14K that relates to the T-3 cut-off day for the forecast reliability gap; or
 - (b) a reliability instrument for a Ministerial reliability gap period made by a Minister of a participating jurisdiction under section 14JA;

6—Amendment of section 14G—Meaning of forecast reliability gap, forecast reliability gap period, T-3 cut-off day and T-1 cut-off day

- (1) Section 14G(1)—after "material" insert:

and a reference in this Part to a forecast reliability gap includes, where the context requires, a reference to a Ministerial reliability gap
- (2) Section 14G(2)—after "occur" insert:

and a reference in this Part to a forecast reliability gap period includes, where the context requires, a reference to a Ministerial reliability gap period

7—Amendment of section 14H—Rules must provide timetable for reliability forecasts, requests and instruments

- (1) Section 14H(2)—delete "the way" and substitute:
1 or more ways
- (2) Section 14H(3)—delete "the way prescribed" and substitute:
a prescribed way
- (3) Section 14H—after subsection (3) insert:
 - (4) In addition, for subsection (2), in the case of a T-3 reliability instrument made by a Minister of a participating jurisdiction, a prescribed way may include the extent to which the reliability gap period and trading intervals stated in a request for the AER to make a T-1 reliability instrument must be the same as, or may be different to, any Ministerial reliability gap period or trading intervals stated in the T-3 reliability instrument.

8—Amendment of section 14I—AEMO must request reliability instrument

Section 14I(3)—after "T-3 reliability instrument" insert:

or the Minister of the participating jurisdiction in which the region is located has made a related T-3 reliability instrument

9—Insertion of section 14JA

After section 14J insert:

14JA—Minister may make T-3 reliability instrument

- (1) Subject to this section, a Minister of a participating jurisdiction may make a T-3 reliability instrument for a region if—
 - (a) the geographical area of the participating jurisdiction constitutes the whole or a part of the region; and
 - (b) it appears to the Minister, on reasonable grounds, that there is a real risk during a period specified in the instrument (a ***Ministerial reliability gap period***) that the supply of electricity to all or part of the region may be disrupted to a significant degree (a ***Ministerial reliability gap***) on 1 or more occasions during the Ministerial reliability gap period.
- (2) Before making a T-3 reliability instrument under subsection (1), the Minister must consult with AEMO and the AER in relation to the instrument the Minister proposes to make.
- (3) The regulations under the application Act of a participating jurisdiction (a ***local regulation***) may provide for requirements (including procedures and any methodology) that must be complied with by the Minister in determining whether there is a real risk that the supply of electricity to all or part of a region may be disrupted to a significant degree.

- (4) A T-3 reliability instrument under subsection (1) must state—
 - (a) the date on which it takes effect; and
 - (b) the region to which it applies; and
 - (c) the first and last days of the Ministerial reliability gap period; and
 - (d) the trading intervals during the Ministerial reliability gap period for which liable entities may be required to hold net contract positions that are sufficient to meet their share of the one-in-two year peak demand forecast for the Ministerial reliability gap period; and
 - (e) AEMO's one-in-two year peak demand forecast for the Ministerial reliability gap period.
- (5) A Minister of a participating jurisdiction may vary or revoke a T-3 reliability instrument made by the Minister under subsection (1).
- (6) As soon as practicable after making or varying a T-3 reliability instrument under this section, the relevant Minister must—
 - (a) publish a copy of the instrument or variation in accordance with any requirements of the local regulations; and
 - (b) publish notice of the making or variation of the instrument in the South Australian Government Gazette.
- (7) The following provisions apply to a T-3 reliability instrument under subsection (1):
 - (a) the first day of a Ministerial reliability gap period specified in the instrument under subsection (4)(c) may not be earlier than 3 years after the day on which the instrument is made;
 - (b) despite any other provision of this Part, a T-3 reliability instrument under subsection (1) that relates to 1 or more days occurring in the period commencing on 1 December 2025 and ending on 31 December 2026 may be made at any time before 1 December 2023.
- (8) The Minister responsible for administering the application Act (other than the application Act of South Australia) under which a local regulation referred to in this section is made is to make arrangements for notice of the making and publication of the regulation to be published for information in the South Australian Government Gazette.

10—Amendment of section 14K—AER may make reliability instrument for a region

Section 14K(1)(b)—after "T-3 reliability instrument" insert:

or the Minister of the participating jurisdiction in which the region is located has made a related T-3 reliability instrument

11—Insertion of section 90EC

After section 90EB insert:

90EC—South Australian Minister to make initial Rules relating to Ministerial reliability instrument

- (1) The Minister in right of the Crown of South Australia administering Part 2 of the *National Electricity (South Australia) Act 1996* of South Australia (the ***South Australian Minister***) may make Rules—
 - (a) for or with respect to—
 - (i) the Ministerial reliability instrument amendments; and
 - (ii) any other subject contemplated by, or necessary or expedient for, the Ministerial reliability instrument amendments; and
 - (b) that revoke or amend a Rule as a consequence of the enactment of the Ministerial reliability instrument amendments.
- (2) Section 34(3) applies to Rules made under subsection (1) in the same way as it applies to Rules made by the AEMC.
- (3) For the purposes of subsection (1), a reference in section 34(1) to the national electricity system is taken to be a reference to the national electricity system or a local electricity system (as the context requires).
- (4) Rules in the nature of a derogation may be made under subsection (1) even though there may not have been a request for a derogation.
- (5) Rules made under subsection (1) may be differential Rules.
- (6) As soon as practicable after making Rules under this section, the South Australian Minister must—
 - (a) publish notice of the making of the Rules in the South Australian Government Gazette; and
 - (b) make the Rules publicly available.
- (7) The notice referred to in subsection (6)(a) must state—
 - (a) the date on which the Rules commence operation; or
 - (b) if different Rules will commence operation on different dates, those dates.
- (8) Rules may only be made under subsection (1) on the recommendation of the MCE.
- (9) Once the first Rules have been made under subsection (1), no further Rules can be made under that subsection.

(10) In this section—

differential Rule means a Rule that—

- (a) varies in its terms as between—
 - (i) the national electricity system; and
 - (ii) 1 or more, or all, of the local electricity systems; or
- (b) does not have effect with respect to 1 or more of those systems;

local electricity system means—

- (a) an electricity system in this jurisdiction prescribed or declared in or under the application Act of this jurisdiction to be a local electricity system; and
- (b) the generating systems and other facilities owned, controlled or operated in this jurisdiction connected to that local electricity system;

Ministerial reliability instrument amendments means the amendments made to this Law by the *National Electricity (South Australia) (Ministerial Reliability Instrument) Amendment Act 2022*.

Schedule 1—Transitional provision

1—Transitional provision

A T-3 reliability instrument made by the Minister under section 19B of the *National Electricity (South Australia) Act 1996* (the ***South Australian Minister***) and in effect immediately before the repeal of section 19B by Part 2 of this Act will be taken to continue in effect according to its terms as if it were a T-3 reliability instrument made by the South Australian Minister under section 14JA of the *National Electricity (South Australia) Law* (as enacted by this Act).